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Evaluation of Bilateral and Regional Labour Affairs and the International Trade and Labour Stream

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Evaluation of Bilateral and Regional Labour Affairs and the International Trade and Labour Stream

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Executive summary

International trade agreements are vital to Canada's economic prosperity. Integral components of most trade agreements are labour provisions, formulated as side agreements or chapters of agreements, which commit parties to uphold internationally accepted principles of rights at work. The labour provisions of free trade agreements (referenced throughout the report as "the labour provisions") are negotiated to promote fundamental labour rights internationally and to ensure Canadian workers and employers are not disadvantaged from unfair competition due to countries not enforcing basic labour rights and principles.

Within the federal government, the Bilateral and Regional Labour Affairs program (referenced in the report as "the program") is responsible for negotiating and implementing labour provisions of free trade agreements (referenced throughout the report as "the labour provisions"). This includes drafting and monitoring labour provisions, investigating complaints, and managing the overall dispute resolution process. The International Trade and Labour stream of the Labour Funding Program (referenced throughout as "the funding stream") contributes to these activities through the provision of project grants that are often linked to the labour provisions. These projects are designed to help build partner countries' capacity to meet their commitments under the labour provisions.

The purpose of the present evaluation was to assess alignment between anticipated outcomes and government priorities; to assess contributions to achieved outcomes of each program component; and to review aspects of economy and efficiency, including the collection and use of performance measures. The evaluation focused on activities between March 2011 and December 2016 for Bilateral and Regional Labour Affairs, and between April 2012 and December 2016 for the International Trade and Labour funding stream. The examined activities included: negotiating, implementing, and monitoring labour provisions, including stakeholder consultations; investigating and resolving instances of non-compliance with labour provisions; monitoring third-party implementation of projects that help partners meet the labour provisions' requirements; building and maintaining relationships with partner countries, including participation in cooperative activities; and sharing knowledge and promoting core labour standards internationally through regional engagement.

The evaluation approach was designed to examine the effectiveness and adequacy of Bilateral and Regional Labour Affairs' contributions to outcomes such as supporting bilateral labour provisions, participating in labour standards initiatives, and supporting partner countries in implementing and meeting the requirements of the labour provisions. The main challenge encountered by the evaluation was limited availability of the program administrative data necessary to measure general outcomes and medium- and long-term impacts. As a result, the evaluation extracted evidence pertaining to outputs and immediate outcomes

from academic literature and secondary data sources (e.g., project reports, trip reports) where available, and then validated this information with the data collected through key informant interviews.

Findings

The program and funding stream objectives are relevant to both the government and Employment and Social Development Canada, and are reflected in Canada's role and obligations as an active participant in the International Labour Organization. The program effectively carries out research and analysis that contributes to the negotiation and implementation of the labour provisions. These activities could potentially be enhanced through additional consultations with stakeholders.

Monitoring and addressing issues of non-compliance related to labour provisions is limited. In part, this is due to the need to allocate limited resources to the most pressing areas, and the low occurrence of formal complaints of non-compliance. The program recognized monitoring gaps, and implemented a monitoring pilot project in 2015.

International Trade and Labour projects are an effective tool for supporting Canada's partners in addressing specific labour-related issues associated with their obligations under the labour provisions. The projects align with labour topics outlined in labour provisions and action plans. Adjustments to the project approval process could help focus projects on areas of highest priority, while adjustments to project duration may contribute to increased sustainability of project outcomes.

The program is structured to work cooperatively with partner countries through the labour provisions. Although the program interacts with the labour provisions' expected beneficiaries in other countries (i.e. employers and employees), it does not provide them with direct support or services. Due to this aspect of program structure and the presence of many external factors beyond the program's control, the evaluation analysis presented herein examines the program's contribution to outcomes. There is some evidence that the labour provisions and the projects can contribute to influencing positive changes in some countries. For example, key informants identified instances where the labour provisions were one factor that contributed to increases for health and safety inspections and provided pressure to better enforce laws protecting the right to freedom of association and collective bargaining in partner countries. Project files documented contributions such as work to support improved labour legislation for protect migrant workers and to improve the effectiveness and efficiency of health and safety inspections.

Various contextual considerations should be taken into account related to informing and interpreting efficiency and economy. These include the relatively limited program resources (approximately $2M per year for the program and

funding stream combined, including grants), the duration of negotiations, the increasing number of agreements with labour provisions, and the close links between these small programs and larger programs from other departments (e.g., Global Affairs Canada) and other countries (e.g., the United States) which may have more control over outcomes.

Lessons learned

1. Consultations could be modified to increase the involvement of provinces, territories, and other stakeholders to potentially enhance analysis and negotiations.

2. Use of monitoring mechanisms and the complaint process to identify and address non-compliance has been limited; the former in part due to resource constraints, and the latter due to the low occurrence of formal complaints. It might be useful to consider how the monitoring pilot project can support the monitoring requirements in the labour provisions, and how framework implementation can be continued in a sustainable manner.

3. Adjustments to the project approval process could help focus on areas of most pressing need. Adjustments to project duration could contribute to sustainability.

4. Potential improvements to performance measurement were identified for both the program and funding stream, particularly in relation to organizing performance data and collecting information on contributions toward longer-term outcomes.

1.0 Introduction

International trade agreements are vital to Canada's economic prosperity. Components of most trade agreements are the labour provisions that are formulated as side agreements or chapters of agreements that uphold internationally accepted principles of rights at work. These enforceable labour provisions are negotiated to ensure that Canadian workers and employers are not disadvantaged by trade agreements from unfair competition by other countries not upholding basic labour rights and principles, and to promote fundamental labour rights internationally.

Within the federal government, Employment and Social Development Canada's Bilateral and Regional Labour Affairs program (referenced hereafter as "the program") is responsible for negotiating, drafting, and monitoring labour provisions, investigating complaints and resolving disputes regarding the labour provisions of free trade agreements (referenced hereafter as "the labour provisions"). In addition, the program has a communication and coordination role that includes providing input to prepare the Minister of Employment, Workforce Development, and Labour for various international meetings. The program's main responsibility in this regard is the Inter-American Conference of Ministers of Labour, for which the program supports the Minister and participates in various workshops and learning events between conferences to share knowledge and best practices with regional partners.

The International Trade and Labour stream of the Labour Funding Program (referenced hereafter as "the funding stream") supports the program's activities through the provision of project grants that contribute to capacity-building in partner countries. The grants are often linked to the negotiation and implementation of the labour provisions, and are used to help partner countries meet their labour provision commitments, including commitments to maintain, improve or enforce their labour legislation.

The purpose of the present evaluation was to assess the alignment between the anticipated outcomes of the program and the funding stream with government priorities; to assess contributions toward achieving outcomes of each program component; and to review aspects of economy and efficiency, including the collection and use of ongoing performance measures.

The program aims to influence partner countries to maintain or improve their labour standards and enforcement through the negotiation and implementation of labour provisions. The success of these efforts depends upon the cooperation of partners and is not easily separated from their internal political and economic contexts or the influence of the countries' other partners. Although the program interacts with stakeholders (i.e. the employers and employees) who are expected to benefit from the labour provisions, it is not structured to provide benefits or services directly to these stakeholders in other countries. Similarly, the funding

stream provides grants to third-party implementing agencies and does not provide services or benefits directly to employers or employees in partner countries, as per the terms and conditions of the Labour Funding Program. Furthermore, these are often not the only projects or initiatives working to address the same issue in the same country. Due to the structure of the program and funding stream, and the presence of external factors beyond their control, the analysis presented remains at the contribution level.

The evaluation focused on activities of both the program and funding stream. For the program, the evaluation scope included activities between March 2011 and December 2016. This included the ongoing work related to negotiation, implementation, and dispute resolution for 12 completed labour provisions, in addition to ongoing activities related to the Inter-American Conference of Ministers of Labour[1]. For the funding stream, the evaluation scope covered between April 2012 and December 2016[2], including 14 projects designed to help trading partners address labour standards and enforcement practices. Examples include projects that helped to prevent child labour, close gaps in labour legislation for vulnerable employee sub-populations, improve understanding of and compliance with labour standards, and increase enforcement of health and safety regulations (see full project list in Appendix 1).

Evaluation methods included document review, literature review, and interviews with 17 key informants, including program officials, representatives from other federal government departments, academic experts in labour law, employer associations, unions, partner countries and third-party organizations receiving project funding.

2.0 Program background

2.1 Labour Provisions of Free Trade Agreements

Canada negotiates and implements labour provisions of free trade agreements based on internationally recognized core labour standards and the enforcement of domestic labour legislation. These used to take the form of separate side agreements to trade agreements, but the most recent approach is to group labour provisions into a chapter within a larger free trade agreement. Canada also negotiates and implements non-binding memoranda of understanding on labour issues.

The objectives of the labour provisions are to support good governance and rule of law internationally; to reinforce Canada's competitive position by ensuring Canadian workers and employers are not disadvantaged in international trade

[1] The Inter-American Conference of Ministers of Labour is the main forum for discussing regional policy priorities on labour issues within the Organization of the American States.
[2] The evaluation scope for the funding stream's activities covered a shorter time period than the scope of evaluation of the program because the Labour Funding Program was only launched in April 2012.

and investment; and to build on Canada's commitment to fundamental human rights (in particular the International Labour Organization's 1998 Declaration on Fundamental Principles and Rights at Work).[3] These principles include the right to freedom of association and collective bargaining, abolition of child labour, elimination of forced or compulsory labour, and elimination of discrimination in employment.

Key components of the labour provisions include stipulations that parties also commit to provide acceptable protection in areas such as occupational health and safety, wages, hours of work and migrant workers. As well, labour provisions have a mechanism through which the public can raise concerns about parties not meeting their obligations under the labour provisions. Usually, labour provisions also contain a dispute resolution mechanism that applies to obligations and principles in the labour provisions; the possibility of financial penalties for non-compliance; non-derogation clauses to help prevent parties from lowering their labour standards or enforcement to attract trade or investment; and commitments to implement cooperative or capacity-building activities in support of the labour provisions' objectives.

As illustrated in Table 1, as of December 31, 2016, Canada had ratified nine trade agreements with labour provisions, while negotiations for three other trade agreements with labour provisions were completed. In addition to these 12 trade agreements, there are two trade agreements for which there were no agreements on labour cooperation at the time of the evaluation (Israel and European Free Trade Association).[4] Excluding the members of the European Union, countries that have signed these agreements accounted for 62% of Canada's imports and 78% of Canada's exports in 2015.[5]

[3] The International Labour Organization is a United Nations agency that works with government, employer, and employee representatives to promote fair labour conditions in its member countries. Among other activities, the organization sets labour standards and fundamental principles and rights at work; oversees labour conventions; implements policies and programs to promote decent work; and encourages dialogue between governments, employers, and employees.

[4] Since December 2016, there has been a labour chapter added to a new agreement with Israel currently under negotiation, and exploratory discussions are underway with the European Free Trade Association.

[5] Workplace Information and Research Division, Labour Program, Employment and Social Development Canada (2015), "The Impact of Imposing Canadian Tariffs on the Exports of Textile, Apparel and Leather Goods from Least Developed Countries."

Table 1: Labour Provisions of Free Trade Agreements as of December 31, 2016

Partner(s) in Trade Agreement	Entry into Force
U.S., Mexico	January 1, 1994
Chile	July 5, 1997
Costa Rica	November 1, 2002
Peru	August 1, 2009
Colombia	August 15, 2011
Jordan	October 1, 2012
Panama	April 1, 2013
Honduras	October 1, 2014
South Korea	January 1, 2015
Ukraine	Negotiations concluded
European Union	Negotiations concluded
Trans-Pacific Partnership	Negotiations concluded[6]

2.2 Overview of the Bilateral and Regional Labour Affairs program

The program seeks to protect Canadian workers and employers from unfair competition from other countries, and to promote fundamental labour rights internationally. Main activities include:

- Negotiating: The program assists in the development and negotiation of labour provisions. This includes consulting with the provinces, territories, and civil society stakeholders.
- Monitoring, investigating complaints, and resolving disputes: The program is responsible for monitoring compliance with labour provisions and using dispute resolution mechanisms to address non-compliance, as necessary.
- Consulting, communicating, and coordinating: The program is the national point of contact for the labour provisions once the trade agreements are ratified, and is responsible for coordinating and communicating with partner countries. The program also coordinates Canada's participation in the Inter-American Conference of Ministers of Labour and provides input into preparations for participation in other international labour-related meetings.

The program's annual budget was approximately $1.1M to $1.3M per fiscal year (April 1 to March 31) within the time covered by the evaluation, (i.e. fiscal years 2011 to 2012 through 2015 to 2016). Approximately 11 full-time equivalent employees are allocated to the program each year. Program outcomes analyzed

[6] Negotiations had concluded in 2015, but discussions have since reopened.

as part of the evaluation are described in Appendix 2.[7] In particular, the evaluation examined the program's contributions to the following immediate outcomes: negotiations concluded or have progressed through stages; institutional capacity of partner countries enhanced through cooperative activities and technical assistance projects; enforcement through use of resolution mechanisms provided for under labour provisions; and Inter-American Conference of Ministers of Labour action plan and declaration are adopted.[8] The evaluation found evidence of the program contributing to each of its outcomes. For example, program activities that made contributions to outcomes include:

- The program's research and negotiation work contributed to negotiations being concluded for eight agreements with labour provisions (see Table 1).
- Grants and contributions projects overseen by the program helped partner countries educate communities about child labour and improve their capacity to implement occupational health and safety inspections.
- Potential non-compliance was investigated by the program and, in one instance, the program published a report with recommendations for improvements to freedom of association and collective bargaining rights.
- The program's engagement with regional partners contributed to the development and implementation of the Inter-American Conference of Ministers of Labour's the action plans and declarations.

2.3 Overview of the International Trade and Labour funding stream

The funding stream seeks to address labour dimensions of international trade and economic integration by promoting good governance, the rule of law, and respect for international labour rights and principles.[9] It is one stream of a larger grants and contributions program, and it funds international technical assistance projects that help partner countries enforce their labour legislation.

Project-based grants are provided to organizations that work with governments and other stakeholders (e.g., unions, employers) to identify and address labour

[7] The evaluation considered outcomes from the most recent draft of the program's logic model available at the start of data collection in spring 2016. See Appendix 2 for the program's expected outcomes in April 2016 and Appendix 3 for the latest version of the program's logic model from August 2017.

[8] The program's contributions to intermediate and ultimate outcomes were also evaluated, but data were most available for the intermediate level.

[9] International labour rights and principles often refer to the fundamental rights and principles outlined by the International Labour Organization. As a member of the organization, Canada is required to respect the four fundamental principles and rights at work (freedom of association and collective bargaining, elimination of forced or compulsory labour, abolition of child labour, elimination of discrimination in respect of employment and occupation). Canada has also ratified 36 International Labour Organization conventions, including eight fundamental conventions.

issues, to produce knowledge and innovations in the fields of labour relations and practices, and/or to expand and support collaborative networks for common labour-related goals. Eligible organizations include international labour or labour-related organizations; national or international organizations with a mandate to help countries meet their trade-related labour requirements; national or international not-for-profits that provide technical assistance on labour issues; and public universities or colleges.

Program officials assess applications and develop, manage and monitor funding agreements. Grant recipients implement the projects with activities intended to address the labour dimensions of globalization. Project topics are selected to assist partner countries implement and uphold the labour-related commitments resulting from bilateral negotiations and labour provisions.

The funding stream's annual budget was approximately $1.2M to $1.9M per fiscal year within the time covered by the evaluation (i.e. 2012 to 2013 through 2015 to 2016).[10] Over these four fiscal years, an average of one-half of a full-time equivalent was allocated to the funding stream. The evaluation analyzed contributions toward the following anticipated outcomes: social dialogue occurs to address labour issues, including labour issues related to the labour provisions; capacity developed to address labour issues, including issues related to the labour provisions; labour issues, including issues related to the labour provisions, are being addressed; and contribute to increased partner countries' enforcement of internationally accepted labour legislation.[11] Examples of specific funding stream activities that contributed to progress made toward the achievement of these outcomes include:

- Social dialogue was facilitated between representatives of employers, employees, and partner countries' ministries of labour on the topics of freedom of association and collective bargaining rights through project activities.

- Capacity was built to track child labour cases and services to prevent child labour and support the transition from child labour were enhanced with the assistance of one project.

- Tools, training, and support for occupational health and safety inspections and occupational health and safety representatives in the workplace were improved in part through the work of a few projects.

[10] Some of the grants in the funding stream are managed by the Multilateral Labour Affairs division, which is not covered by this evaluation.

[11] See Appendix 4 for the Labour Funding Program's full logic model, including the outcomes for the International Trade and Labour Stream.

3.0 Relevance

3.1 Alignment with priorities regarding international trade and labour

The program and related funding stream are relevant to both the government and Employment and Social Development Canada (referred to hereafter as "the Department"). The program and funding stream objectives are in alignment with the priorities of the government and the Department in the areas of international trade and labour, including the government's progressive trade agenda. This finding was supported by interviews with program officials, and confirmed with information extracted from budget documents, Departmental Performance Reports, Reports on Plans and Priorities.

3.2 Alignment with priorities regarding maintenance of international rights and principles

The objectives of the program and funding stream are also reflected in Canada's role and obligations as an active participant in the International Labour Organization. For example, alignment between the program and funding stream's objectives and departmental priorities is demonstrated in the Department's 2015 to 2016 Report on Plans and Priorities which states, "[O]ur Government will continue to collaborate with domestic and international partners to promote the importance of respect for fundamental labour principles and rights through the negotiation and implementation of labour provisions in trade agreements".[12]

4.0 Effectiveness

4.1 Supporting the negotiation and implementation of labour provisions of free trade agreements

The evaluation found that the program's research and analysis activities contribute to the negotiation and implementation of the labour provisions. With respect to consultation activities, there was limited evidence that regular consultations with provinces, territories and other stakeholders have been conducted, and then used to support the negotiation and implementation of the labour provisions.

[12] Canada, Employment and Social Development Canada, 2015 to 2016 Report on Plans and Priorities (Ottawa: Employment and Social Development Canada, 2015), p.2.

Description of activity

A key program activity is to prepare for the negotiation of the labour provisions by researching and analysing various labour issues and conditions, previous labour provisions, stakeholder views, and relevant work from other federal government departments. Using this information, the program produces negotiating positions and progress summaries to inform senior management and stakeholders from other federal departments.

The program starts negotiations with a baseline model, which is built upon previous labour provisions. This has the advantage of providing consistency in the administration and interpretation of the labour provisions, resulting in less need to consult on each set of labour provisions. This approach also makes use of the program's research and analysis work to tailor the baseline model text to the context of each negotiating partner.

The program is also responsible for conducting consultations with the provinces, territories and other stakeholders on the negotiations. Global Affairs Canada, the lead department for trade negotiations on behalf of the Government of Canada, decides on the overarching approach to consultations with provinces and territories during trade agreement negotiation, and has a mechanism for providing updates. The program provides progress reports to provincial and territorial trade representatives through this mechanism, in addition to updates given through annual meetings of a Canadian Association of Administrators of Labour Legislation sub-committee. In recent years, the overall approach to provincial and territorial involvement has varied, ranging from quite involved (e.g., the Canada-European Union Comprehensive Economic and Trade Agreement) to more passive (e.g., the first iteration of the Trans-Pacific Partnership).

Areas of strength

One key area of strength is program's work collecting and analyzing information on labour situations in potential partner countries. According to key informants, the research conducted by the program assists the negotiation team to identify specific areas of concern, to devise their negotiation strategy, and to identify issues that could be addressed through International Trade and Labour projects or cooperative work with the partner country.

Provincial involvement in trade and labour agreements has increased of late, particularly in the context of negotiations with the European Union and renewed Trans-Pacific Partnership discussions. The program has also made efforts to enhance consultations with stakeholders through, for example, participation in International Labour Organization meetings with employee and employer representatives. A roundtable discussion was held between the Department's Labour Program, employer, and employee representatives in 2013 to discuss forming a new technical advisory group on trade and labour negotiations, but the

evaluation could not find any evidence of further meetings to establish this advisory group.

Areas of challenge and issues for consideration

The evaluation found that even with recent changes to provincial and territorial involvement in negotiations, there was limited engagement and consultation of these partners when considering the five year evaluation period reviewed. Furthermore, only five provinces are signatories to at least one agreement with labour provisions that was in force during the evaluation period, and only Québec and Manitoba are signatories to more than one agreement with labour provisions (see Appendix 5). According to a review of the literature, the provinces experience challenges in endorsing trade agreements and their labour provisions, as they perceive they lack evidence of effectiveness, experience in the issues being negotiated and resources to prepare for and attend negotiations.[13] They have little incentive to sign off because they can experience benefits without formally endorsing the trade or labour provisions. Lack of endorsement may also help them avoid legal repercussions should non-compliance with the labour provisions occur. Limited provincial endorsements have been highlighted by some scholars as an indication that the approach to provincial and territorial involvement in negotiations is outdated.[14]

The labour provisions include mechanisms for formal consultations with representatives of labour, business, and members of the public, but there was limited evidence of regular, formal, structured consultations with these stakeholders in Canada in recent years. Key informants, including program officers and union representatives, suggested there is a need for greater, more proactive consultations with stakeholders. A few key informants noted that the use of standardized baseline model text when beginning negotiations can compound the challenge of finding a method to meaningfully integrate stakeholder feedback in negotiations.

4.2 Implementing labour provisions and monitoring labour rights and standards in partner countries

Overall, the program's capacity to monitor labour provisions was impacted by their responsibility and resource requirements for new and ongoing negotiations. The program undertook infrequent monitoring of labour rights and standards in partner countries during the period covered by the evaluation. An implementation and monitoring framework pilot project was introduced in 2015 to help address this gap.

[13] Christopher J. Kukucha (2016), "Provincial/Territorial Governments and the Negotiation of International Trade Agreements," IRPP Insight (10). p. 8 to 9.
[14] Patrick Fafard and Patrick Leblond (2012), Twenty-First Century Trade Agreements: Challenges for Canadian Federalism.

Description of activity

Implementation and monitoring of the labour provisions can take place through mechanisms found in the labour provisions themselves, as well as activities undertaken by program officials to keep informed of the labour situations in partner countries. Almost all labour provisions include a requirement that a Ministerial Council undertake a review of operations and effectiveness within three to five years after the labour provisions enter into force as part of the implementation process. Program officials monitor labour issues in partner countries through ongoing research and review of publicly available reports from key agencies and networks. These efforts are combined with information collected directly from stakeholders in partner countries through correspondence and periodic missions to partner countries. International Trade and Labour projects are also an important source of monitoring through periodic progress reports and updates from funding recipients.

In 2015, the program undertook a monitoring pilot project to address self-identified monitoring limitations, to assist with more effective implementation, and to identify potential compliance issues for future cooperative work. The pilot involved more detailed data collection and analysis than previous monitoring efforts, and yielded reports on the labour situations in four partner countries.

Areas of strength

Monitoring activities were found to provide some useful information on various labour issues and conditions. Missions complement the general information received from public reports with more directly collected, detailed information from stakeholders. Similarly, International Trade and Labour projects were found to be a useful vehicle for engagement and information flow regarding labour issues and conditions. The development of the monitoring framework demonstrates an understanding of the need for improved monitoring. The pilot project for implementing the framework can support potential improved approaches to monitoring in the future.

Areas of challenge and issues for consideration

Overall, there was little evidence that some key implementation activities were completed. The evaluation found no evidence of the required Ministerial Council reviews of operations and effectiveness being planned or undertaken as part of the implementation process. While some monitoring approaches are being used, it is unclear the extent to which they would be able to effectively identify and pre-empt major issues not raised through a formal complaint, given that some of the labour provisions' dispute settlement mechanisms can only be activated through formal complaints. The program could review opportunities to make better use of formal implementation mechanisms found in the labour provisions.

The pilot project for the monitoring framework could also be reconsidered to determine if it could support the implementation mechanisms in the labour provisions. As well, the framework could be further examined to determine the extent to which its implementation is both effective and sustainable, with consideration to such contextual factors as the program's limited resources and the increasing number of agreements with labour provisions to monitor.

4.3 Addressing issues of non-compliance

The formal approach to address non-compliance was activated on only two occasions from 2011 to 2016. Both cases advanced to ministerial consultations, but none to date have required escalation to subsequent steps of the dispute resolution process.

Description of activity

Potential non-compliance may be identified by the program through monitoring, or self-identified by a partner that requests assistance to meet its obligations. When the risk of non-compliance is identified in this manner, program officials can consult with partner labour officials to have cooperative exchanges of training and knowledge, and use International Trade and Labour projects to address these issues before they escalate.

A more formal approach to addressing non-compliance under the labour provisions is activated when a public communication (i.e. complaint) is filed and accepted. Labour provisions contain a public communication mechanism through which employees, employers, and other stakeholders can raise concerns about potential non-compliance in the territory of a trading partner. The program acts as Canada's National Administrative Office, an arms' length entity that receives and investigates public communications submitted to Canada. The National Administrative Office received three public communications during the period covered by the evaluation, two of which met the technical requirements for an investigation, which are specified in the labour provisions.

As public communications are investigated, officials from Canada's National Administrative Office are in discussions with labour officials in the partner country. These discussions can result in the partner country taking steps to address the issue during the investigation without having to proceed further through the formal process.

The labour provisions also establish a dispute settlement process comprised of escalating actions. As an initial step, Canada can request consultations between labour officials and/or ministers, and offer technical assistance funds to address problematic areas. The two instances of public communications included in this evaluation were addressed through ministerial consultations. Neither instance progressed past this stage.

Areas of strength

The potential activation of the formal process provides leverage for the informal process, with the overall framework and subsequent compliance mechanisms acting as an incentive to resolve the issue voluntarily through informal approaches. The formal process of public communications and ministerial consultations has been a helpful tool for investigating and addressing non-compliance with the labour provisions. A few key informants noted that the process ensures time and resources are allocated to understand the issues and to work closely with partners to address them.

Areas of challenge and issues for consideration

The evaluation found that the public communication process is difficult to access. Key informants noted barriers such as cost, technical requirements (i.e. labour provisions included in the evaluation require complainants to partner with an organization in Canada to submit a public communication), and requirements for data and documentation. Reviewing and investigating complaints is time-consuming and resource-intensive for the program, resulting in months for the preparation of a report.

It was challenging to measure the effectiveness of formal methods used to address non-compliance, in part due to infrequent use. There was limited documentation available on the outcomes of the formal process, and whether it caused improved compliance. The program may want to consider improving the documentation of efforts to addressing non-compliance to assist in understanding the relative contribution of each approach in achieving outcomes (e.g., increased compliance, improved labour standards) within a complex, interwoven set of activities.

4.4 Supporting Canada's partners and fulfilling Canada's obligations in addressing labour-related issues

International Trade and Labour projects are an effective tool for helping Canada's partners to implement the labour provisions by addressing specific issues related to partners' obligations under the labour provisions. The projects align with labour topics outlined in labour provisions and action plans. Key informants suggested that adjustments to the project approval process could help ensure projects focus on areas of highest priority and most pressing need. They also indicated that adjustments to project timelines and longer-term programming may contribute to the potential for sustainable project outcomes.

Description of activity

The International Trade and Labour funding stream is designed to help Canada's partners meet their labour provision commitments by providing grants for projects that maintain or improve partners' labour legislation or enforcement capacity. As

specified in the funding stream's terms and conditions, these grants are not used as Canada's mandatory contributions to any international organizations, nor are they used to supply core funding or operating expenses to any organization; however, they support Canada's commitment to international organizations to respect and promote internationally recognized labour standards by helping countries to address labour-related issues. Program officials undertake research, analysis, and consultations with potential funding recipients and partner country officials to develop project proposals with a specific focus that aligns with Canada's funding priorities, and partners' priorities and needs. Projects vary in length (15 months to 45 months) and in funding amounts ($46,000 to $700,000), as demonstrated by the list of projects in Appendix 1.

Areas of strength

The evaluation found, through the document review and interviews, that all projects are responding to partners' needs for help with maintaining, improving, and enforcing labour legislation, rights and principles. There is alignment between project foci and labour topics outlined in corresponding labour provisions, and Plans of Action developed by the program. For example, grants were provided to help address gaps in labour legislation and high levels of child labour among migrant workers in one partner country, and the technical assistance projects funded through these grants contributed to improvements for migrant workers in these areas. Key informants noted that the projects demonstrate commitment, collaboration, and good faith whether implemented before, during, or after the labour provisions are put in place.

Key informants and project reports indicated that projects have contributed to:

- Assisting partners to comply with their labour provision obligations.
- Increasing enforcement capacity through activities such as training inspectors and developing more effective inspection and enforcement tools.
- Maintaining or improving partners' labour legislation and policies.

Areas of challenge and issues for consideration

Although projects respond to partners' needs, some key informants indicated there is room for projects to focus more on the most pressing needs related to labour provision requirements. Program officials noted that they would be better able to substantiate and strengthen their rationale for project selection if they could complete more research and monitoring activities to determine the areas of greatest need. Some key informants said increased time for stakeholder consultation during the approval process could also help to focus on the areas of most need. The program could consider how the approval process might be adjusted to increase the benefits of the consultation, research and analysis

stages, which could improve the match between projects and most pressing needs.

While noting that sustainability of outcomes is often a challenge for international development projects and is influenced by external factors, the evaluation found that it was a concern for approximately one half of the funding stream's projects. The projects are often self-contained, and follow-up funds, when needed, are not always available.

Connected to project sustainability were challenges encountered with project duration. For the 14 projects included in the evaluation, the average duration was 25 months; however, there was considerable range, with a large proportion of projects requesting time extensions. Key informants suggested that project duration and value may not be sufficient to fully, sustainably address the areas of concern on their own. They identified an opportunity to re-examine project duration and explore ways of improving the likelihood of sustainable outcomes through longer-term programming.

4.5 Protecting Canadian employees and employers from unfair competition

There is some evidence that the labour provisions at various stages (i.e. negotiation, implementation, complaint investigation, and dispute settlement) can contribute to influencing positive changes in some countries. While the magnitude of influence varies, the labour provisions are generally associated with contributing to improvements in both labour enforcement capacity and legislative changes. This association is mediated by various factors external to the labour provisions, including the domestic political and economic contexts of partner countries.

Description of activity

The labour provisions are expected to contribute to protecting Canadian employers and employees from unfair competition by encouraging partner countries to adopt, maintain, and enforce labour standards that respect international labour rights and principles. By this logic, the labour provisions help to protect Canadian employers and employees from other countries undercutting Canada's competitiveness through inadequate or unenforced labour standards. The extent to which the labour provisions contribute to this outcome is dependent on various contextual factors specific each set of labour provisions, and whether the labour provisions are effective in ensuring that working conditions in partner countries are in line with internationally recognized principles and practices. When these conditions are inadequate, the labour provisions can facilitate changes either in the legislative frameworks that regulate labour conditions or in the capacity to enforce that legislative framework.

Areas of strength

The evaluation found some evidence that the program's work may have been a contributing factor to positive changes that occurred during the time period covered by the evaluation. For example, during this time, Colombia has been working on legislative reform that appears to be related to the country's efforts to ratify trade agreements with various partners, including Canada. Similarly, a few key informants said the program's work may have been one factor in Honduras's decision to increase its budget for labour investigations.

Areas of challenge and issues for consideration

Overall, the evaluation found it difficult to directly attribute changes in any specific country's legislative framework and enforcement capacity to their labour provisions with Canada. While there is a logical link supported by the literature, the influence of the labour provisions is likely one of many contributing factors, along with countries' internal political and economic contexts. Furthermore, Canada's partner countries may have to comply with or be subject to complaints under labour provisions with other countries, which could also contribute to the overall pressure to maintain or improve their labour standards and enforcement. Limited performance data had been collected to demonstrate the labour provisions' contributions toward the protection of Canadian employees and employers from unfair competition. Some key informants identified opportunities to increase collaboration with stakeholders and partner country labour officials during the implementation and monitoring of labour provisions, which could also provide more data on the program's longer-term outcomes.

4.6 Regional engagement contributing to reduction of unfair competition and promotion of labour standards

Through the program's involvement, Canada is an active participant in the Inter-American Conference of Ministers of Labour and its working groups and committees. Participation in the group's discussions and knowledge-building activities allowed the program to promote labour standards, share best practices, and build relationships with partner countries to support labour provision negotiation, implementation, and monitoring.

Description of activity

Regional engagement occurs through participation in the Inter-American Conference of Ministers of Labour, which involves delegates from 34 countries across the Americas. The organization's main event is a biannual conference for ministers. Between conferences, labour officials participate in planning and preparatory meetings, attend workshops, and negotiate and draft a declaration and a plan of action. Plans of action usually include learning events and discussions for the time between conferences.

Areas of strength

Canada's participation in the Inter-American Conference of Ministers of Labour signals to other countries the importance of the issues being discussed at this forum. Key informants noted that the forum presents opportunities to exchange information and best practices, which help the program maintain networks; promote fundamental labour rights and shape discussions based on Canada's priorities; and learn about labour issues in other countries. They perceived these activities as contributing to labour provision negotiation, implementation, and monitoring. Canada's leadership role in the forum's project funding mechanism was perceived to have contributed to countries working together to share knowledge and coordinate training. For example, Canadian Labour Program officials used this mechanism to hold training in Chile and to meet with Chilean labour stakeholders about labour standards and enforcement best practices.

Areas of challenge and issues for consideration

These activities can be categorized as primarily a knowledge exchange forum with relatively broad, overlapping themes. A few key informants said concerns have been raised that the forum focuses too much knowledge rather than enforceable actions, but participation is still perceived to have value for promoting labour standards and keeping informed on labour issues across the region. The program, in describing its program logic and outcomes, may want to consider repositioning the outcomes of this type of activity towards the areas of knowledge exchange and mobilization, keeping informed, and making contributions to the understanding of issues related to labour conditions and enforcement tools. The more intermediate outcomes could perhaps build on how this type of information is relayed and used to develop labour provisions for various trade agreements, to promote the maintenance of fundamental labour rights and principles, and to support the effective selection of projects under the funding stream.

5.0 Efficiency and economy

5.1 Resources

The program and the funding stream each have annual budgets of approximately $1M. The total financial and human resources used to negotiate, implement (including grants), and monitor the labour provisions are, on average, slightly more than $2M per year.[15]

[15] Some of the grants in the International Trade and Labour stream are managed by the Multilateral Labour Affairs division, which is not covered by this evaluation

Table 2: Budget (actual) for the Bilateral and Regional Labour Affairs program and the International Trade and Labour Stream

	2011 to 2012	2012 to 2013	2013 to 2014	2014 to 2015	2015 to 2016
Bilateral and Regional Labour Affairs Program					
Direct program spending	$983,554	$978,269	$941,610	$1,133,135	$1,125,708
Operations and Maintenance costs	$137,764	$146,426	$162,415	$46,561	$207,506
International Trade and Labour Stream, Labour Funding Program					
Grants spending/fund	--	$1,895,232	$1,114,982	$1,002,951	$1,000,000
Direct program spending	--	$65,516	$50,811	$65,339	$22,835
Operations and Maintenance costs*	--	$0	$0	$154,150	$203,173

Data provided by the Chief Financial Officer branch, current as of December 2016.
* Operations and Maintenance costs were attributed to the International Trade and Labour stream in fiscal years 2014 to 2015 and 2015 to 2016 due to a change in accounting methodology.

5.2 Observations on efficiency and economy

Many contextual factors and requirements are beyond the control of the program and funding stream. The program and funding stream are very small from both financial and human resources perspectives. In addition, the program and funding stream's activities and outputs are often closely linked to the work of other federal departments (e.g., Global Affairs Canada) and the work and priorities of partner countries. Negotiations associated with a specific trade agreement can take place over a number of years, and there was a significant increase in the number of free trade agreements involving Canada over the past decade.

Areas of strength

The following examples of the program and funding stream making efforts to find efficiencies in their work were drawn from key informants and program administrative documents:

- Sending small negotiation teams to have a presence at international negotiations, missions, and Inter-American Conferences of Ministers of Labour.
- Increasing the use of standard clauses in the development of labour provisions, which allows for a baseline model to be employed and then tailored rather than starting anew each time.
- Using in-person negotiation processes, which can have some upfront costs (e.g., travel, accommodations), but often result in more rapid building of trust, and use of informal consultations, which can significantly speed up the

negotiation process and contribute to more productive relationships in the long run.

- Selecting implementation agencies for International Trade and Labour projects according to their capacity to demonstrate labour expertise, sound financial administration practices, ability to report results, and strong field presence.

5.3 Observations on monitoring and performance measurement

The evaluation found that while both the program and the funding stream do make efforts to monitor their activities and outputs, additional attention is required to monitor and measure their achievement and contributions towards outcomes. In some instances, such as for the funding stream projects, there are lessons learned in briefing notes and close out reports which could be useful for performance measurement, but these are not compiled or used for performance reporting in a systematic manner. At the time of the evaluation, the program had a completed performance information profile. It is considered an evolving document (which includes revisions to the logic model) which can serve as the basis for collecting and analysing performance data in an organized, structured manner.

6.0 Conclusion

The Bilateral and Regional Labour Affairs program and the International Trade and Labour funding stream are relevant to the priorities of the government and the department. The program and funding stream are achieving their immediate outcomes and making contributions toward higher-level outcomes, but the actual magnitude of these contributions could not be assessed.

The program and funding stream have demonstrated strength in such areas as:

- Supporting the negotiation and implementation of labour provisions through research and analysis.
- Taking steps to address gaps in efforts to monitor the implementation of and compliance with labour provisions, and working to address non-compliance.
- Assisting partners to address labour-related issues through International Trade and Labour grants, and aligning the grants to related labour provisions and action plans.
- Using the labour provisions, at various stages, to make contributions toward positive change in labour legislation and enforcement in partner countries.
- Sharing knowledge and best practices with other countries in the Americas.
- Finding opportunities to make efficient use of limited resources.

The evaluation identified lessons learned to consider going forward:

1. Consultations could be modified to increase the involvement of provinces, territories, and other stakeholders to potentially enhance analysis and negotiations.

2. Use of monitoring mechanisms and the complaint process to identify and address non-compliance has been limited; the former in part due to resource constraints, and the latter due to the low occurrence of formal complaints. It might be useful to consider how the monitoring pilot projects can support the monitoring requirements in the labour provisions, and how framework implementation can be continued in a sustainable manner.

3. Adjustments to the project approval process could help focus on areas of most pressing need. Adjustments to project duration could contribute to sustainability.

4. Potential improvements to performance measurement were identified for both the program and funding stream, particularly in relation to organizing performance data and collecting information on contributions toward longer-term outcomes.

Appendix 1: International Trade and Labour projects

Project title	Partner country	Implementation agency	Start date	End date	Funding amount	Goal
Occupational Health and Safety and Social Dialogue in the Mining Sector	Colombia	International Labour Organization	Mar. 2013	Dec. 2015	$300,000	Implementation
Increasing Compliance with International Labour Standards in the Tourism Industry	Dominican Republic	International Labour Organization	Mar. 2013	Mar. 2015	$200,000	Negotiation
Improving the Protection of Labour Rights	Jordan	International Labour Organization	Mar. 2013	Sep. 2014	$180,000	Implementation
Assessment of Existing Labour Provisions in Trade and Investment Arrangements	N/A	International Labour Organization	Mar. 2013	Dec. 2016	$498,248	Research
Occupational Health and Safety in the Non-Traditional Agro-Export Sector	Peru	International Labour Organization	Mar. 2013	Mar. 2015	$300,000	Implementation
Strengthening the Capacities of Tripartite Constituents to Address Labour Issues	Vietnam	International Labour Organization	Mar. 2013	June 2015	$300,000	Cooperation Framework
DIALOGANDO II - Building Labour Law Compliance Capacity	Honduras, Panama	La Fundación para la Paz y la Democracia	Mar. 2014	Aug. 2016	$700,000	Negotiation and Implementation
Promoting Fundamental Principles and Rights at Work	Jordan	International Labour Organization	Mar. 2014	May 2016	$315,000	Implementation
National Strategy for the Prevention and Elimination of the Worst Forms of Child Labour	Colombia	International Labour Organization	Mar. 2015	Jun. 2017	$318,395	Implementation
Integrated System for the Identification and Registration of Child Labour	Peru	International Labour Organization	Mar. 2015	Dec. 2017	$338,556	Implementation
Promoting Gender Rights and Tackling Child Labour in the Garment and Footwear Sector	Vietnam	International Labour Organization	Mar. 2015	Jun. 2016	$46,000	Cooperation Framework
Strengthening Occupational Health and Safety Compliance and Inspection	Honduras	La Fundación para la Paz y la Democracia	Mar. 2016	June 2017	$200,000	Implementation
Promoting Core International Labour Standards and Compliance in the Garment Sector	Vietnam	International Labour Organization	Mar. 2016	Oct. 2017	$250,898	Cooperation Framework
Pilot Project for the Elimination of Child Labour Among Refugees and Host Communities	Jordan	International Labour Organization	Mar. 2016	Dec. 2017	$251,000	Implementation

Appendix 2: Bilateral and Regional Labour Affairs outcomes (April 2016)

The evaluation used the following program outcomes, available at the time of data collection, to analyse program performance:

Immediate outcomes

- Trade-related labour agreements and Memoranda of Understanding concluded or have progressed through stages.
- Institutional capacity of Ministries of Labour and labour related stakeholders in partner countries enhanced through cooperative activities and technical assistance projects.
- Enforcement through use of resolution mechanisms provided for under trade-related labour agreements.
- Inter-American Conference of Ministers of Labour action plan and declaration are adopted.

Intermediate outcomes

- Ratification of labour provisions of free trade agreements; Memoranda of Understanding into effect.
- High level labour standards, laws, policies and practices are promoted.
- Labour authorities in partner countries are progressing in enforcing their labour laws and in complying with trade-related labour agreement labour obligations.
- Inter-American Conference of Ministers of Labour action plan and declaration are implemented.

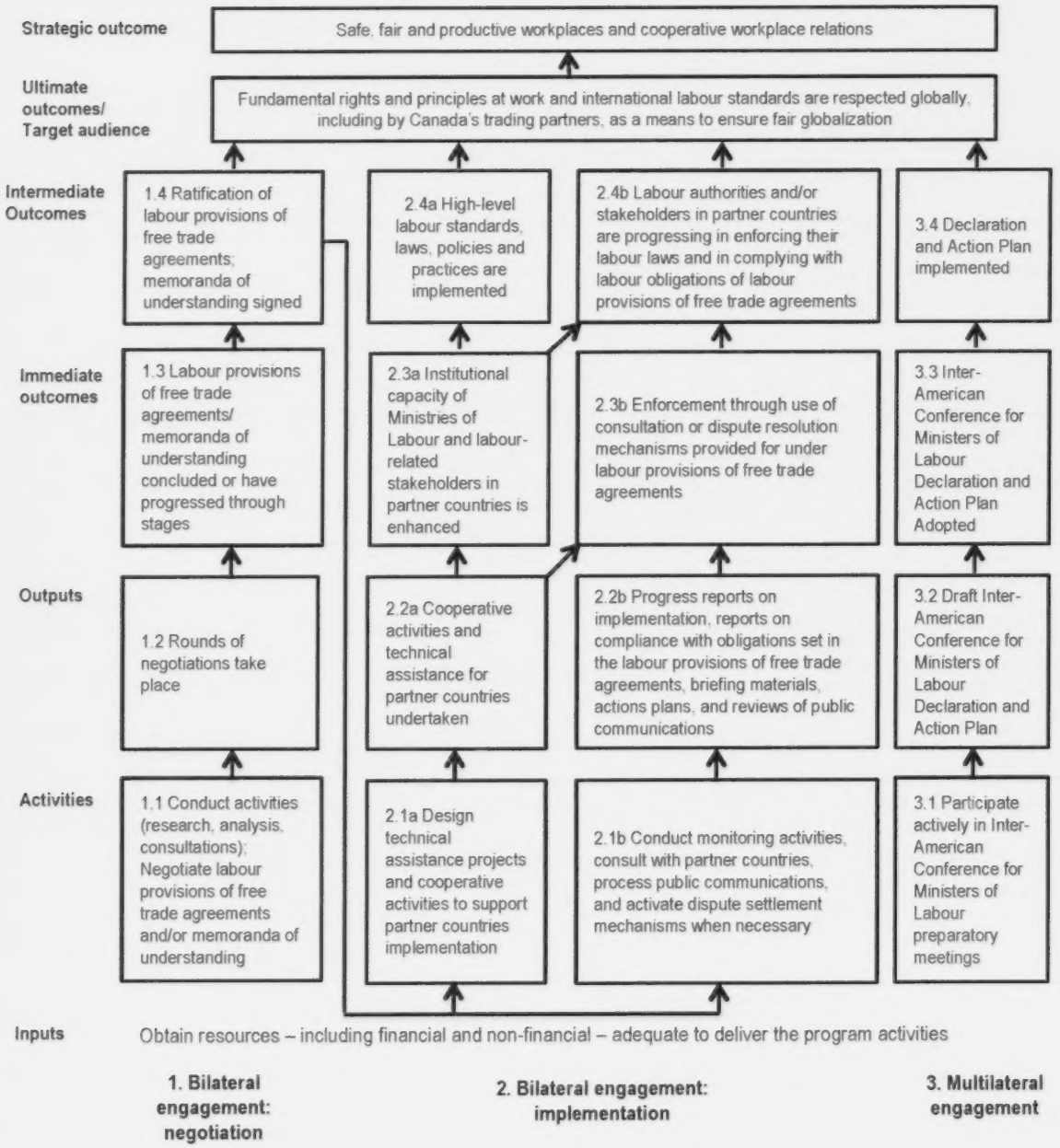
Ultimate outcome

- Sub-standard labour principles in partner countries which result in unfair competition and undercut Canada's competitiveness are improved and fundamental rights of work of partner countries are better respected.

Strategic Outcome

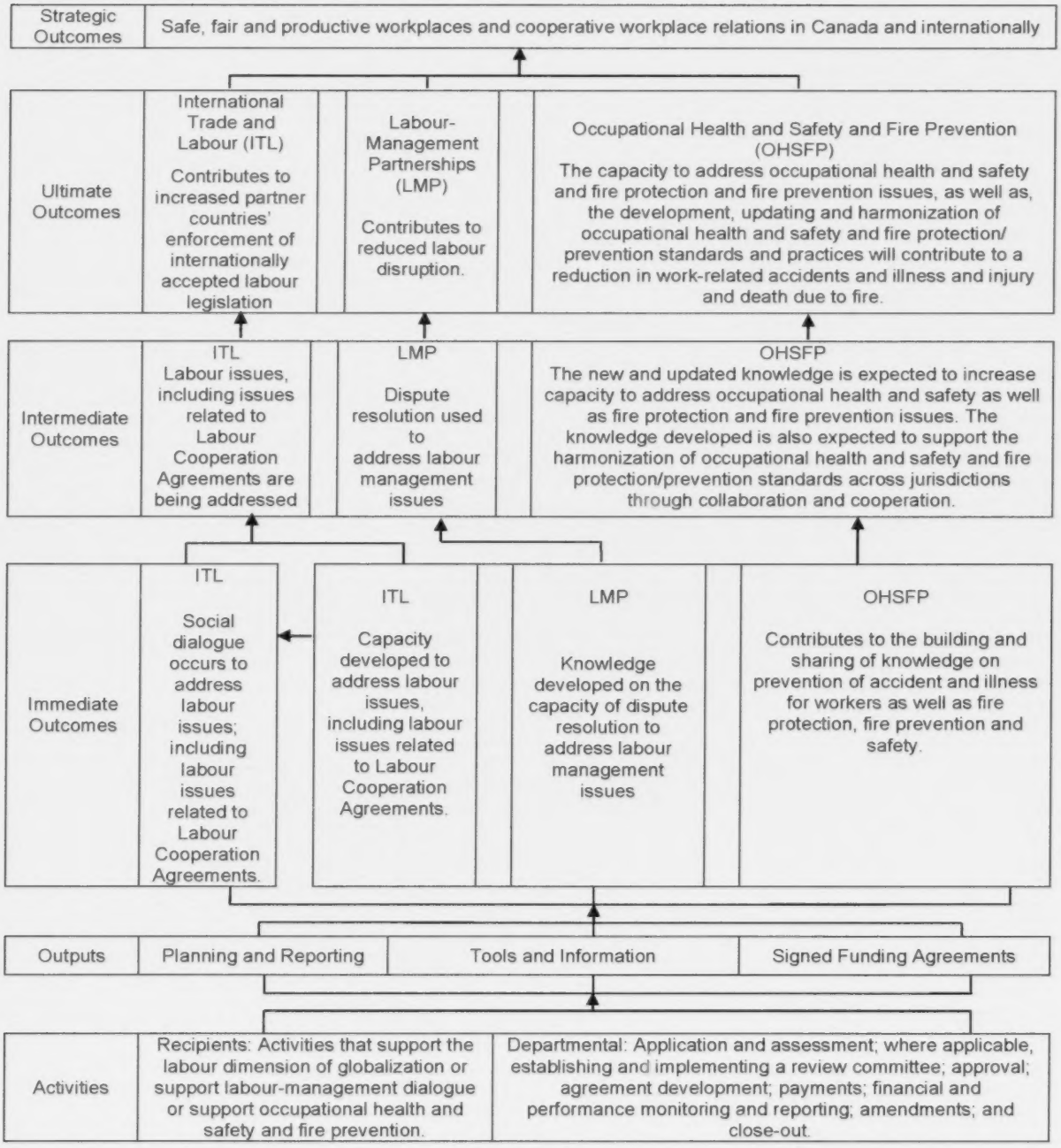
- Safe, fair and productive workplaces and cooperative workplace relations.

Appendix 3: Bilateral and Regional Labour Affairs logic model (August 2017)[16]


Strategic outcome
Safe, fair and productive workplaces and cooperative workplace relations
Ultimate outcomes/ Target audience
Fundamental rights and principles at work and international labour standards are respected globally, including by Canada's trading partners, as a means to ensure fair globalization
Intermediate Outcomes
1.4 Ratification of labour provisions of free trade agreements; memoranda of understanding signed
2.4a High-level labour standards, laws, policies and practices are implemented
2.4b Labour authorities and/or stakeholders in partner countries are progressing in enforcing their labour laws and in complying with labour obligations of labour provisions of free trade agreements
3.4 Declaration and Action Plan implemented
Immediate outcomes
1.3 Labour provisions of free trade agreements/ memoranda of understanding concluded or have progressed through stages
2.3a Institutional capacity of Ministries of Labour and labour-related stakeholders in partner countries is enhanced
2.3b Enforcement through use of consultation or dispute resolution mechanisms provided for under labour provisions of free trade agreements
3.3 Inter-American Conference for Ministers of Labour Declaration and Action Plan Adopted
Outputs
1.2 Rounds of negotiations take place
2.2a Cooperative activities and technical assistance for partner countries undertaken
2.2b Progress reports on implementation, reports on compliance with obligations set in the labour provisions of free trade agreements, briefing materials, actions plans, and reviews of public communications
3.2 Draft Inter-American Conference for Ministers of Labour Declaration and Action Plan
Activities
1.1 Conduct activities (research, analysis, consultations); Negotiate labour provisions of free trade agreements and/or memoranda of understanding
2.1a Design technical assistance projects and cooperative activities to support partner countries implementation
2.1b Conduct monitoring activities, consult with partner countries, process public communications, and activate dispute settlement mechanisms when necessary
3.1 Participate actively in Inter-American Conference for Ministers of Labour preparatory meetings
Inputs
Obtain resources – including financial and non-financial – adequate to deliver the program activities
1. Bilateral engagement: negotiation
2. Bilateral engagement: implementation
3. Multilateral engagement

[16] The logic model, current as of August 2017, has been modified to include only Bilateral and Regional Labour Affairs. The full version includes Multilateral Labour Affairs, which is outside the evaluation scope.

Appendix 4: Labour Funding Program logic model (August 2011)


Strategic Outcomes
Safe, fair and productive workplaces and cooperative workplace relations in Canada and internationally
Ultimate Outcomes
International Trade and Labour (ITL)
Contributes to increased partner countries' enforcement of internationally accepted labour legislation
Labour-Management Partnerships (LMP)
Contributes to reduced labour disruption.
Occupational Health and Safety and Fire Prevention (OHSFP)
The capacity to address occupational health and safety and fire protection and fire prevention issues, as well as, the development, updating and harmonization of occupational health and safety and fire protection/ prevention standards and practices will contribute to a reduction in work-related accidents and illness and injury and death due to fire.
Intermediate Outcomes
ITL
Labour issues, including issues related to Labour Cooperation Agreements are being addressed
LMP
Dispute resolution used to address labour management issues
OHSFP
The new and updated knowledge is expected to increase capacity to address occupational health and safety as well as fire protection and fire prevention issues. The knowledge developed is also expected to support the harmonization of occupational health and safety and fire protection/prevention standards across jurisdictions through collaboration and cooperation.
Immediate Outcomes
ITL
Social dialogue occurs to address labour issues; including labour issues related to Labour Cooperation Agreements.
ITL
Capacity developed to address labour issues, including labour issues related to Labour Cooperation Agreements.
LMP
Knowledge developed on the capacity of dispute resolution to address labour management issues
OHSFP
Contributes to the building and sharing of knowledge on prevention of accident and illness for workers as well as fire protection, fire prevention and safety.
Outputs
Planning and Reporting
Tools and Information
Signed Funding Agreements
Activities
Recipients: Activities that support the labour dimension of globalization or support labour-management dialogue or support occupational health and safety and fire prevention.
Departmental: Application and assessment; where applicable, establishing and implementing a review committee; approval; agreement development; payments; financial and performance monitoring and reporting; amendments; and close-out.

Appendix 5: Provincial and territorial endorsement of Agreements

Agreement	British Colombia	Alberta	Saskatchewan	Manitoba	Ontario	Québec	New Brunswick	Nova Scotia	Prince Edward Island	Newfoundland and Labrador	Yukon	Northwest Territories	Nunavut
North American Agreement on Labour Cooperation[17] (1994)	No	Yes	No	Yes	No	Yes	No	Yes	Yes	No	No	No	No
Chile[18] (1997)	No	No	No	Yes	No	Yes	No	No	No	No	No	No	No
Costa Rica[19] (2002)	No	No	No	Yes	No	Yes	No	No	No	No	No	No	No
Peru (2009)	No	No	No	No	No	**	No	No	No	No	No	No	No
Colombia (2011)	No	No	No	No	No	**	No	No	No	No	No	No	No
Jordan (2012)	No	No	No	No	No	**	No	No	No	No	No	No	No
Panama (2013)	No	No	No	No	No	**	No	No	No	No	No	No	No
Honduras (2014)	No	No	No	No	No	**	No	No	No	No	No	No	No
Korea (2015)	No	No	No	No	No	**	No	No	No	No	No	No	No

Note: Only trade agreements in force as of December 2016 are included in this table.
** Québec has adopted a series of decrees to adhere to these labour provisions.[20]

[17] The North American Agreement on Labour Cooperation is the labour cooperation agreement associated with the North American Free Trade Agreement.
[18] Canada, Employment and Social Development Canada, Canada's Labour Cooperation Agreements: Provincial/Territorial Adherence, (2013).
[19] Canada, Employment and Social Development Canada, Canada's Labour Cooperation Agreements: Provincial/Territorial Adherence, (2013).
[20] Jordan, Honduras, Peru: Québec, National Assembly, Votes and Proceedings, 41st legislature, 1st sess., no. 97, June 3, 2015, pp. 1257 to 1259. South Korea, Colombia, Panama: Québec, National Assembly, Votes and Proceedings, 41st legislature, 1st sess., no. 95, May 28, 2015, pp. 1238 to 1242.